

# INFORMATION LETTER

## NATIONAL CANNERS ASSOCIATION

Not for  
Publication

For Members  
Only

No. 1267

Washington, D. C.

December 31, 1949

### Sugar Requirements for 1950 Set by USDA at 7,500,000 Tons

Consumer requirements for sugar during the calendar year 1950 have been determined by the U. S. Department of Agriculture at 7,500,000 tons, raw value, the same quantity as the revised current determination for 1949. The USDA announcement said:

"Distribution of sugar for all consumption purposes by refiners, processors, and importers during the 12 months ending October 31, 1949, amounted to 7,644,000 tons. However, sugar distribution during November, 1949, was below that for the corresponding month a year earlier and the trend of prices in the raw sugar market was downward. Stocks held by refiners, importers, industrial users, wholesalers and retailers, are about the same as they were a year ago, and there is no evidence of efforts on the part of such distributors and users to increase their inventories.

"Population is expected to be at least 1 percent larger in 1950 than it was in 1949, but offsetting this is the fact that the trend of incomes of industrial workers and farmers has been downward in the past year. Refined sugar prices remain below the final OPA ceiling price of \$8.40 per hundredweight, and 80 cents below the price—as related to the cost of living—established by the Act as one of the considerations in making requirement determinations.

"Under prospective demand conditions the Department believes that the quantity of 7,500,000 tons will be sufficient to meet consumer requirements at prices which are reasonable to consumers and which will maintain and protect the welfare of the domestic sugar industry."

### BAE Crop Reporting Board

W. F. Callander, chairman of the Crop Reporting Board in the U. S. Department of Agriculture since 1922, retires December 31 and will be succeeded by S. R. Newell, it is announced by Secretary of Agriculture Charles F. Brannan. Mr. Newell has been deputy assistant administrator for marketing in the Production and Marketing Administration.

### Wage-Hour Division Issues Revised Regulations Governing Exemptions for White Collar Employees under Sec. 13(a)(1)

Adoption of revised regulations governing the minimum wage and overtime exemption of executive, administrative, professional, local retailing and outside salesmen from the Fair Labor Standards Act was announced December 23 by the Wage and Hour Division of the U. S. Department of Labor.

#### Analysis of Amendments To Fair Labor Standards Act

A general analysis of the amendments to the Fair Labor Standards Act enacted during the recent session of Congress has been prepared by Counsel for the purpose of acquainting canners with the general nature of the new amendments. The analysis begins on page 373.

#### On Other Pages

The 1949 pack of canned pears is reported by the Association's Division of Statistics at 6,371,036 actual cases.

The 1949 canned peach pack, revised to include final California cling peach totals, is reported at 20,418,669 actual cases.

Details of the pear and peach packs, as well as details of the tomato juice pack, are reported on page 376.

### Syndicated Column Comments On Dented and Bulged Cans

A syndicated food column which was nationally distributed to 26 daily newspapers has explained that although dented or bulged cans are seldom seen, a can with a dent is harmless but a bulged can is not safe to use.

The syndicated column, by Edith Barber, states: "Such care is exercised by the can manufacturers in producing the containers and by the canners themselves that we seldom have a spoilage problem. Quality of the food, the most modern equipment and care and cleanliness in the preparation of the products are all essentials which are recognized as such and we can count on the safety of all."

(Please turn to page 377)

The revised regulations, establishing requirements for exemption under Section 13(a)(1) of the wage-hour law, will take effect on January 25, effective date of the new statutory minimum wage of 75 cents.

Text of the new regulations covering "executive," "administrative," and "professional" employees and "outside salesman" is reproduced on page 372. An analysis of the regulations will be published at a later date.

### 'Woody' Meyer Heads Eastern Division of Richmond-Chase

E. A. (Woody) Meyer has been made vice president in charge of the Eastern Division of the Richmond-Chase Company of San Jose, Calif., it is announced. Mr. Meyer's headquarters will be located in New York City. The firm states that the establishment of an Eastern Division will not alter the policy of sales through brokers.

Until the New York office is opened, Mr. Meyer will be located at 425 East Leland St., Chevy Chase, Md.

Well known to the industry, both as a practicing canner in his prewar career and as an important government official until his resignation last July as Administrator of the Research and Marketing Act, Mr. Meyer will bring to his new duties a thorough understanding of practically all phases of canned food production, sales, and distribution.

He entered government service in 1941 after 20 years in food processing with the same firm, C. H. Musselman Co., Biglerville, Pa. During World War I Mr. Meyer had served in the Quartermaster Corps.

His first government position was as a consultant on canned foods with

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## SCHEDULE OF PRINCIPAL EVENTS OF THE 1950 CONVENTION

### National Food Sales Conference—January 24-27

Sunday, January 22

All day—Registration of National Food Brokers Association, Chalfonte Hotel

Monday, January 23

9:30 a.m. and 2 p.m.—Business meetings of N.F.B.A., Carolina Room, Chalfonte Hotel

Tuesday, January 24

All day—Sales meetings—brokers, buyers, and sellers  
7 p.m.—Annual N.F.B.A. Banquet, Grand Ballroom, Convention Hall

Wednesday, January 25

All day—Sales meetings—brokers, buyers, and sellers  
9:30 a.m.—Meeting of N.C.A. Budget Committee, Suite 1007, Hotel Traymore  
2 p.m.—Meeting of N.C.A. Buildings Committee, Chippendale Room, Hotel Traymore  
2 p.m.—Meeting of Executive Committee and Officers, National Preservers Association, Marlborough-Blenheim  
3 p.m.—Meeting of N.C.A. Fishery Products Committee, Mandarin Room, Hotel Traymore

Thursday, January 26

All day—Sales meetings—brokers, buyers, and sellers  
9 a.m.—Meeting of N.C.A. Scientific Research Committee, Pine Room, Hotel Traymore  
9:30 a.m.—Meeting of N.C.A. Home Economics Committee, Stratosphere Room, Hotel Traymore  
9:30 a.m.—Meeting of N.C.A. Legislative Committee, Club Room, Hotel Traymore  
10 a.m.—Meeting of N.C.A. Labeling Committee, Chippendale Room, Hotel Traymore  
10 a.m.—General session of the National Preservers Association, Marlborough-Blenheim Hotel  
12:15 p.m.—Luncheon meeting of National Meat Canners Association, Rutland Room, Haddon Hall  
12:30 p.m.—Luncheon meeting of N.C.A. Administrative Council, Rose Room, Hotel Traymore  
12:30 p.m.—Luncheon meeting of N.C.A. Convention Committee, Rose Room, Hotel Traymore  
1:30 p.m.—Business meeting of N.C.A. Convention Committee, Mandarin Room, Hotel Traymore  
1:30 p.m.—Corn Canners Service Bureau Conference, Claridge  
2 p.m.—General Session of the National Preservers Association, Marlborough-Blenheim Hotel  
2:20 p.m.—Annual Meeting of Associated Independent Corn Canners, Claridge  
3:35 p.m.—Annual Meeting of Canned Pea Association, Claridge  
6:30 p.m.—Dinner for State Secretaries, Mandarin Room, Hotel Traymore

Friday, January 27

All day—Sales meetings—brokers, buyers, and sellers  
9:30 a.m.—Canning Machinery and Supplies Exhibit, Convention Hall  
9:30 a.m.—Trustees' meeting of Corn Canners Service Bureau, Pine Room, Hotel Traymore  
10 a.m.—Registration of National-American Wholesale Grocers Association, Ambassador  
10 a.m.—Technical session of the National Preservers Association, Marlborough-Blenheim Hotel  
10 a.m.—Executive session of N.C.A. Board of Directors, Rose Room, Hotel Traymore  
2 p.m.—Open session of N.C.A. Board of Directors, Rose Room, Hotel Traymore  
5 p.m.—Distribution of Attendance Awards by C.M.&S.A., Convention Hall  
7 p.m.—Young Guard Banquet and Entertainment, American Room, Hotel Traymore

### Food Congress on Production—January 28-31

Saturday, January 28

9 a.m.—Meeting of N.C.A. Nominating Committee, Room 1, Convention Hall  
9:30 a.m.—C.M.&S.A. Exhibit, Convention Hall  
9:30 a.m.—Grocery Exhibit, N.A.W.G.A., Ambassador  
10 a.m.—General Session, N.A.W.G.A., Ambassador  
10 a.m.—General Session of N.C.A., Ballroom, Convention Hall  
12:30 Luncheon meeting of N.C.A. Claims Committee Pine Room, Hotel Traymore  
2 p.m.—Meeting of N.C.A. Statistics Committee, Chippendale Room, Hotel Traymore  
2 p.m.—N.C.A. Canning Problems Conference, Room 20, Convention Hall  
2 p.m.—N.C.A. Raw Products Conference, Room 21, Convention Hall  
2 p.m.—N.C.A. Fishery Products Conference, Convention Hall  
4 p.m.—Joint N.C.A. Session on Food and Drug hearings, Room 20, Convention Hall  
5 p.m.—Attendance Awards, Convention Hall  
6 p.m.—Dinner meeting of N.C.A. Raw Products Committee, Chippendale Room, Hotel Traymore  
7 p.m.—Annual Dinner Dance under auspices of C.M. &S.A., Trimble Hall, Claridge Hotel  
8 p.m.—N.C.A. Raw Products Smoker, Rose Room, Hotel Traymore

Sunday, January 29

9 a.m.—N.C.A. Raw Products Conference, Room 21, Convention Hall  
10 a.m.—Meeting of N.C.A. Research Advisory Committee, Pine Room, Hotel Traymore  
10:30 a.m.—Annual Meeting of C.M.&S.A., Room B, Convention Hall  
1 p.m.—C.M.&S.A. Exhibit, Convention Hall  
2 p.m.—General Session of N.C.A.; installation of officers; Ballroom, Convention Hall  
2 p.m.—Grocery Exhibit, N.A.W.G.A., Ambassador  
5 p.m.—Attendance Awards, Convention Hall  
6:30 p.m.—Old Guard Reception and Dinner, Claridge  
8:45 p.m.—Entertainment by Sigmund Romberg, sponsored by C.M.&S.A., Warner Theater, 2015 Boardwalk

Monday, January 30

9 a.m.—Grocery Exhibit, N.A.W.G.A., Ambassador  
9 a.m.—Special Corn Meeting, joint sponsorship of N.C.A. and Corn Canners Service Bureau, followed by annual business meeting, C.C.S.B., Room 20, Convention Hall  
9:30 a.m.—C.M.&S.A. Exhibit, Convention Hall  
9:45 a.m.—General Session, N.A.W.G.A., Ambassador  
10 a.m.—Miscellaneous N.C.A. Technical Meetings (details to be announced), Convention Hall  
1 p.m.—Luncheon of National Pickle Packers Association, West Room, Haddon Hall  
5 p.m.—Attendance Awards, Convention Hall

Tuesday, January 31

9 a.m.—Grocery Exhibit, N.A.W.G.A., Ambassador  
12:30 p.m.—Luncheon meeting of N.A.W.G.A., Ambassador

## LABOR

### Wage-Hour Regulations on Exemptions under Sec. 13(a)(1)

#### Section 541.1—Executive

The term "employee employed in a bona fide executive . . . capacity" in section 13(a)(1) of the act shall mean any employee—

(a) whose primary duty consists of the management of the enterprise in which he is employed or of a customarily recognized department or subdivision thereof; and

(b) who customarily and regularly directs the work of two or more other employees therein; and

(c) who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring or firing and as to the advancement and promotion or any other change of status of other employees will be given particular weight; and

(d) who customarily and regularly exercises discretionary powers; and

(e) who does not devote more than 20 percent of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (d) of this section: *Provided*, That this paragraph (e) shall not apply in the case of an employee who is in sole charge of an independent establishment or a physically separated branch establishment, or who owns at least a 20 percent interest in the enterprise in which he is employed; and

(f) who is compensated for his services on a salary basis at a rate of not less than \$55 per week (or \$30 per week if employed in Puerto Rico or the Virgin Islands) exclusive of board, lodging, or other facilities:

*Provided*, That an employee who is compensated on a salary basis at a rate of not less than \$100 per week (exclusive of board, lodging, or other facilities), and whose primary duty consists of the management of the enterprise in which he is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all of the requirements of this section.

#### Section 541.2—Administrative

The term "employee employed in a bona fide . . . administrative . . . capacity" in section 13(a)(1) of the act shall mean any employee—

(a) whose primary duty consists of the performance of office or nonmanual field work directly related to management policies or general business operations of his employer or his employer's customers; and

(b) who customarily and regularly exercises discretion and independent judgment; and

(c) (1) who regularly and directly assists a proprietor, or an employee employed in a bona fide executive or administrative capacity (as such terms are defined in these regulations), or

(2) who performs under only general supervision work along specialized or technical lines requiring special training, experience, or knowledge, or

(3) who executes under only general supervision special assignments and tasks; and

(d) who does not devote more than 20 percent of his hours worked in the workweek to activities which are not directly and closely related to the performance of the work described in paragraphs (a) through (c) of this section; and

(e) who is compensated for his services on a salary or fee basis at a rate of not less than \$75 per week (or \$200 per month if employed in Puerto Rico or the Virgin Islands) exclusive of board, lodging, or other facilities:

*Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than \$100 per week (exclusive of board, lodging, or other facilities), and whose primary duty consists of the performance of office or nonmanual field work directly related to management policies or general business operations of his employer or his employer's customers, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all of the requirements of this section.

#### Section 541.3—Professional

The term "employee employed in a bona fide . . . professional . . . capacity" in section 13(a)(1) of the act shall mean any employee—

(a) whose primary duty consists of the performance of work—

(1) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, as distinguished from a general academic education and from an apprenticeship, and from training in the performance of routine mental, manual, or physical processes, or

(2) original and creative in character in a recognized field of artistic endeavor (as opposed to work which can be produced by a person endowed with general manual or intellectual ability and training), and the result of which depends primarily on the in-

vention, imagination, or talent of the employee; and

(b) whose work requires the consistent exercise of discretion and judgment in its performance; and

(c) whose work is predominantly intellectual and varied in character (as opposed to routine mental, manual, mechanical, or physical work) and is of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and

(d) who does not devote more than 20 percent of his hours worked in the workweek to activities which are not an essential part of and necessarily incident to the work described in paragraphs (a) through (c) of this section; and

(e) who is compensated for his services on a salary or fee basis at a rate of not less than \$75 per week (or \$200 per month if employed in Puerto Rico or the Virgin Islands) exclusive of board, lodging, or other facilities: *Provided*, That this paragraph (e) shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof:

*Provided*, That an employee who is compensated on a salary or fee basis at a rate of not less than \$100 per week (exclusive of board, lodging, or other facilities), and whose primary duty consists of the performance of work either requiring knowledge of an advanced type in a field of science or learning, which includes work requiring the consistent exercise of discretion and judgment, or requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section.

#### Section 541.5—Outside Salesman

The term "employee employed . . . in the capacity of outside salesman" in section 13(a)(1) of the act shall mean any employee—

(a) who is employed for the purpose of and who is customarily and regularly engaged away from his employer's place or places of business in—

(1) making sales within the meaning of section 3(k) of the act, or

(2) obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer, and

(b) whose hours of work of a nature other than that described in paragraphs (a)(1) or (a)(2) of this section do not exceed 20 percent of the hours worked in the workweek by non-exempt employees of the employer: *Provided*, That work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall not be regarded as non-exempt work.

## General Analysis of Amendments to Fair Labor Standards Act

The Fair Labor Standards Amendments of 1949 go into effect on January 25, 1950. The amendments result in a comprehensive revision of existing law which will affect the operations of all canners. The following summary analysis of the new law has been prepared by Association Counsel for the purpose of acquainting canners with the general nature of the new amendments. Detailed analyses of particular provisions will be forthcoming as the particular problems facing canners under the new legislation become apparent.

### Coverage

The new law alters the present pattern of employee coverage by providing new tests of coverage. The wage-hour provisions still apply only to employees engaged in commerce or in the production of goods for commerce, but a new definition of production will have the effect of excluding certain employees formerly within the Act. Under the old law, employees "necessary to the production" of goods were covered, as well as those directly engaged in producing the goods. The amended version provides that the Act shall apply only to employees directly engaged in production or in a "closely related process or occupation directly essential to the production" of goods. The Conference Report makes it clear that some narrowing of the coverage was intended, but the Act still applies to maintenance, custodial, and clerical employees of interstate producers. In view of the uncertainty, it is suggested that canners make no change in their present policies with respect to coverage until there have been official rulings.

Coverage still is based on the activities of the individual employee, rather than on the work of his fellow employees, the nature of his employer's business, or the character of the industry as a whole.

### Commerce

The definition of "commerce" has been amended to bring within the Act employees engaged in incoming foreign commerce. Under the old law the Act applied only to employees engaged in commerce between the states or in outgoing foreign commerce.

### Minimum Wages

The minimum wage has been raised to a flat rate of 75 cents an hour for all employees other than those employed in Puerto Rico or the Virgin Islands. The statutory provisions for industry committees and minimum wage orders by the Administrator have been eliminated for all areas other than Puerto Rico and the Virgin Islands.

### Overtime Pay

The general requirement of the present Act, that employment in excess of 40 hours in a workweek shall be compensated at a rate not less than one and one-half times the regular rate at which the employee is employed, has been retained. For the first time, however, Congress has attempted to provide a comprehensive definition of what is to be considered "regular rate" for purposes of computing overtime. To a large extent this definition fol-

lows existing administrative and judicial interpretations, but some minor changes have been effected.

### Regular Rate

The following payments are to be excluded from the employee's "regular rate," but may not be credited as overtime payments against the overtime due for hours worked in excess of the statutory limit:

(1) Money paid as gifts or rewards for service, such as gifts at Christmastime or on other special occasions, when the amounts so paid are unrelated to the employee's efficiency or output or to his hours of work;

(2) Bonuses, the amount or payment of which is entirely discretionary with the employer;

(3) Payments for time not worked, such as payments for holidays, vacations, absences, or for show-up or reporting pay;

(4) Payments to employees in reimbursement of legitimate expenses incurred in furthering the employer's interests;

(5) Employer contributions to profit-sharing plans which meet the requirements of administrative regulations and which are independent of the individual employee's productivity, efficiency, or hours of work;

(6) Irrevocable employer contributions to welfare and pension plans.

The following payments may not only be excluded from the employee's "regular rate," but may also be credited against overtime due the employee for hours worked in excess of the statutory maximum:

(1) Premium pay (even though less than time and one-half) for work over eight hours a day or over 40 hours a week or for work in excess of the employee's normal or regular working hours;

(2) Premium pay for work on a Saturday, Sunday, holiday, or on employee's regular day of rest, or on the 6th or 7th day of the workweek. In order to qualify under this provision,

the premium payments must be at least one and one-half times the rate set in good faith for similar work during non-overtime hours or other days;

(3) Premium pay for work outside of an employee's regular workday or workweek, i.e., outside of the employee's regular clock hours, irrespective of the number of hours previously worked by the employer during the day or week if (a) the regular workday does not exceed eight hours and the regular workweek does not exceed 40 hours, (b) the regular workday and workweek have been established in good faith by an employment or union contract, (c) the premium pay is at least one and one-half times the rate for similar work done during the regular workday or workweek, and (d) such premium pay is paid pursuant to an employment agreement or union contract.

Paragraph (1) above approximates the "true overtime" as defined by the Supreme Court in the *Bay Ridge* decision. Paragraphs (2) and (3) re-enact the partial definition of "regular rate" contained in the substantive provisions of the Overtime-on-Overtime Law of 1949. The only change in substance made in these two provisions is the addition of "regular days of rest" to the special days listed in Paragraph (2). Days off which fall early in the week can now be treated as overtime days without meeting the requirements of either of the other two paragraphs.

### Hours Worked

In order to determine whether overtime is due, an employer must determine whether time spent by employees in particular activities must be considered as hours worked. The Portal-to-Portal Act of 1947 relieved employers from liability for all claims for time spent by employees in walking, traveling, or riding to or from the place of performance of the employee's principal activity, or for other preliminary and postlimentary activities occurring outside the regular workday, unless these activities were compensable under contract, custom, or practice. The Administrator has ruled that time spent in activities occurring outside the regular workday is to be considered hours worked if such activities are an integral part of the employee's principal activity. The Administrator has also ruled that time spent in washing up and changing clothes is an integral part of an employee's principal activity and therefore "hours worked" for overtime purposes.

The new law provides that time spent in changing clothes or washing at the beginning or end of each workday is not to be considered "hours worked" as long as there is in existence an applicable collective-bargaining agreement which by its express terms or by settled practice under it excludes such time.

#### Annual and Semi-Annual Wage Plans

Under existing law, employees employed pursuant to bona fide collective-bargaining agreements which provide that the employee shall not be worked more than 1,000 hours during any period of 26 consecutive weeks, or 2,080 hours during any period of 52 consecutive weeks, are exempt from the overtime time provisions of the Act, provided overtime is paid for all hours in excess of 12 in any workday or 56 in any workweek.

The 1949 amendments liberalize the overtime exemptions for employees working under such wage-plan contracts. The new law allows the agreement to specify 1,040 hours as the maximum for the 26-week period, and permits employees working under a 52-week agreement to be employed in excess of 2,080 hours without the loss of the exemption, provided the employee is paid time and one-half for the hours in excess of 2,080 and does not work more than 2,240 hours in the year. In addition, the agreement for the 52-week period can provide for the employee working as little as 1,840 hours during the year without the loss of the exemption.

#### Overtime Computation under Guaranteed Weekly Wage Plans

The new law gives qualified approval to presently approved methods of computing overtime for workers employed under the so-called Belo-type contracts, which provide for guaranteed minimum weekly wages for employees engaged in activities which involve fluctuating hours of work. The amendments provide that employees may be employed under contracts calling for guaranteed minimum weekly wages, and that the amount of such guarantee need not be considered the "regular rate" for purposes of computing overtime, if the following conditions are met:

(1) There must be a collective-bargaining agreement or individual employment contract which shows the terms of the arrangement;

(2) An hourly rate must be agreed upon which is not less than the statutory minimum of 75 cents;

(3) The duties of the employee must be such that irregular hours of work are necessary;

(4) The workweek governed by the guarantee must not be over 60 hours. When more than 60 hours is worked, time and one-half must be paid for the additional time.

The effect of these conditions is to require that the employee be able to earn the guaranteed minimum weekly wage by working 40 hours at the agreed hourly rate plus an additional 20 hours at a rate of time and one-half the agreed hourly rate. Paragraphs (3) and (4) limit the effect of court decisions which have in the past approved guarantees for workweeks

as high as 84 hours and have applied the Belo doctrine to fairly regular workweeks.

#### Methods of Computing Overtime Not Based on Average Hourly Rates

The new law gives statutory approval to three methods of computing overtime which are not based on the average hourly earnings of the employee for the week in which overtime is to be computed. These new provisions permit employers to avoid recomputing the employee's average hourly earnings for the week for the purpose of determining the overtime rate which is applicable. This procedure is possible in the following instances:

(a) Piece workers can now be paid overtime at a rate equal to time and one-half the piece rate applicable to the work done during non-overtime hours, provided, of course, that the average hourly earnings for the regular workweek are not less than the statutory minimum of 75 cents;

(b) Workers performing two or more kinds of work for which different hourly or piece rates have been established may have their overtime computed at rates not less than one and one-half times the rate applicable to the same work when performed during non-overtime hours;

(c) Workers employed at other than hourly rates may have their overtime computed at a rate of one and one-half times a rate established by agreement as the basic rate to be used in computing overtime, provided that the Administrator finds that the basic rate so established is substantially equivalent to the average hourly earnings of the employee over a representative period of time. The circumstances under which this latter provision may be availed of have not been fully clarified, and official rulings will be necessary before its general applicability is determined.

#### Child Labor

The child labor provisions of the Act have been generally strengthened. Under the new law, a child under 18 may not be employed in any occupation which the Secretary of Labor finds to be particularly hazardous or detrimental to his health or well-being, regardless of whether he is employed by his parent or not. This closes a loophole formerly existing whereby children under 16, when employed by their parents, could be employed in occupations prohibited to children between the ages of 16 and 18.

The complete exemption for children employed in agriculture has been retained with slightly more restrictive language. Children may be employed in agriculture provided they work only during periods outside of the school hours prevailing in the school district where they are living while so employed. The former language, "while

not legally required to attend school," permitted evasions under varying state laws.

For the first time, the Act directly prohibits the employment of oppressive child labor in commerce or in the production of goods for commerce. Under the old law, employers became subject to criminal penalties only if they shipped in interstate commerce goods produced in establishments where child labor had been employed within 30 days preceding the shipment. Employment of children under 16 is now a direct violation of the Act.

Provision is also made for relieving innocent purchasers of goods produced in establishments employing child labor from criminal penalties for shipping such goods in interstate commerce. The amendments provide that purchasers who acquire goods in good faith in reliance on written assurances from the producers, manufacturers, or dealers that the goods have been produced in compliance with the law shall not be subjected to penalties for shipping such goods in interstate commerce.

#### Agricultural Processing Exemptions

The 14-week overtime exemptions provided to canners by Sections 7(b) (3) and 7(c) of the Act remain unchanged. Buttermilk has been added to the list of commodities, the first processing of which is exempted from the overtime provisions for an unlimited period of time by Section 7(c).

#### The White Collar Exemption

The provisions of the old law exempting from both overtime and minimum wage requirements executive, administrative, professional, and outside salesman employees (as defined by the Administrator) have not been changed. New administrative regulations defining these terms, however, are scheduled to go into effect on the date of the new amendments.

#### Retail Exemptions

The exemption for employees employed by retail or service establishments has been substantially revised. In order to qualify as a retail establishment, any establishment making or processing goods which it sells must conform to all of the following tests:

(1) Over 50 percent of its annual dollar volume of sales of goods must be made within the state in which the establishment is located;

(2) At least 75 percent of the establishment's annual dollar volume of sales of goods must not be for resale;

(3) At least 75 percent of the establishment's annual dollar volume of sales of goods must be recognized as retail sales in the particular industry;

(4) The establishment must be recognized as a retail establishment in its industry;

(5) More than 85 percent of the establishment's annual dollar volume of sales of goods that it makes or processes must be made within the state in which the establishment is located;

(6) The goods made or processed must be made or processed at the establishment that sells the goods.

It is not expected that any commercial canners can meet these requirements.

#### Fisheries Exemption

The new law continues, with one change, the exemption from both minimum wage and overtime requirements provided to the fishing industry. In the future the exemption will apply to employees engaged in the catching, taking, harvesting, cultivating, or farming of any kind of fish, shellfish, crustacea, sponges, seaweeds, or other aquatic forms of animal and vegetable life, including the going to and returning from work and including employment in the loading, unloading, or packing of such products for shipment, or in propagating, processing (other than canning), marketing, freezing, curing, storing, or distributing the above products or byproducts thereof. The loss of the complete exemption to fish canners is partially compensated by a new provision exempting employees engaged in fish canning from the overtime requirements of the Act.

#### Agricultural Exemption

Employees engaged in agriculture remain exempt from both the overtime and minimum wage requirements of the Act. An additional exemption is provided for employees employed in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, or operated on a share-crop basis, and which are used exclusively for supply and storing of water for agricultural purposes.

#### Area of Production Exemptions

The complete exemption from both overtime and minimum wage for all individuals employed within the area of production, as defined by the Administrator, who are engaged in handling, packing, drying, preparing in their raw or natural state, or canning of agricultural or horticultural commodities for market, remains as before. The 14-week overtime exemption provided by 7(c) to all employees of employers engaged in the first processing, within the area of production, of any agricultural or horticultural commodity during seasonal operations also remains unchanged.

#### Seamen's Exemption

The exemption to seamen from both minimum wage and overtime requirements has not been altered.

#### Outside Buyers of Poultry and Dairy Products

An unlimited exemption from overtime is made available to all individuals employed as outside buyers of poultry, eggs, cream, or milk, in their raw or natural state.

#### Prohibited Acts

The new law continues the prohibition against the transportation, the delivery for transportation, or the sale in commerce, or sale with knowledge that shipment or delivery or sale in commerce is intended, of any goods produced in establishments employing labor in violation of the wage-hour provisions. A new provision, however, has been added which protects innocent purchasers from unintentional violations of the prohibition and from having the goods which he has purchased in good faith ordered to be withheld from shipment by an injunction. Good faith purchasers who acquire goods in reliance on written assurances from the producer that the goods were produced in establishments complying with the law and who have no knowledge that the Act has been violated are no longer subject to the Act's penalties.

#### Enforcement

In addition to the criminal provisions of the Act, the present law provides that an employer is subject to suit by an employee for the recovery of the amount of his unpaid minimum wages and unpaid overtime compensation plus an additional equal amount as liquidated damages. The new law makes no change in these provisions, but grants to the Administrator several new and enlarged enforcement powers. The Administrator is now authorized to assist employees in the recovery of unpaid back wages in two ways:

(1) to supervise the payment of the unpaid minimum wages or the unpaid overtime compensation owing to any employee; and

(2) to bring suit, upon the written request of the individual employee, for the recovery of the back wages owed the employee.

Limitations on these new powers operate against both the employee and the Administrator.

Under the provision for "supervision," the Administrator is empowered to investigate and to ascertain the amount of wages due the employee and to supervise the adjustment of the wage claim. Any employee who accepts a supervised payment or who consents to a suit by the Administrator on his behalf and who obtains a judgment for the amount of his wages owed or who receives payment under Administrator supervision waives his individual right to sue for back pay and his right to recover the additional amount as liquidated damages.

The two-year statute of limitations provided by the Portal-to-Portal Act is equally applicable to suits by the Administrator. The Administrator is expressly prohibited from bringing suit on behalf of the employee unless:

(1) the employee in writing has requested him to bring suit; and

(2) the case does not involve "an issue of law which has not been settled finally by the courts."

#### Injunctions

The power of the Federal courts to restrain violations of the Act is retained. The amendments, however, expressly deprive the courts of jurisdiction to order the payment to employees of unpaid back wages in any suit brought by the Administrator to restrain such violations. This latter provision, however, does not prevent the Administrator from joining a back wage claim and an application for injunction in a single complaint, nor does it prevent the Administrator from bringing successive suits for the two purposes.

#### Existing Administrative Regulations and Prior Wage-Hour Amendments

The new amendments specifically provide that existing orders, regulations and interpretations of the Administrator or Secretary of Labor remain in effect, except to the extent that they are inconsistent with such amendments. New administrative regulations interpreting and making effective the new provisions of the Act have been promised at an early date.

#### Forthcoming Meetings

January 22-31—Annual Conventions of National Canners Association, National Food Brokers Association, and Canning Machinery & Supplies Association, Atlantic City, N. J.

January 23-24—Canadian Food Processors Association, Annual Convention, Ritz-Carlton Hotel, Montreal.

January 28-31—National-American Wholesale Grocers Association, Annual Convention, The Ambassador, Atlantic City, N. J.

January 31-February 3—National Association of Frozen Food Packers, Annual Convention, Congress Hotel, Chicago.

February 9-10—Ozark Canners Association, 42nd Annual Convention, Colonial Hotel, Springfield, Mo.

February 13-14—Tennessee-Kentucky Canners Association, Annual Meeting, Andrew Jackson Hotel, Nashville, Tenn.

February 16-17—Minnesota Canners Association and University of Minnesota, Canners and Fieldmen's Short Course, Hotel Radisson, Minneapolis.

March 9-10—Canners League of California, Fruit and Vegetable Sample Cuttings, Fairmont Hotel, San Francisco, Calif.

March 10-11—Utah Canners Association, Annual Convention, Hotel Utah, Salt Lake City.

March 12-14—Northwest Canners Association, Annual Meeting, Multnomah Hotel, Portland, Ore.

March 20-21—Canners League of California, Annual Convention, Biltmore Hotel, Santa Barbara, Calif.

## STATISTICS

### Stocks and Shipments Of Canned Fruits and Juices

Reports on canners' stocks and shipments of canned apricots, sweet cherries, peaches, pears, peas and tomato juice have been compiled by the Association's Division of Statistics, and detailed reports on these canned foods have been mailed to all canners packing these items.

#### Canned Apricot Stocks and Shipments

	1948-49	1949-50
(cases—basis 24/2½'s)		
Carryover, June 1.....	706,000	1,522,000
Pack.....	4,767,000	2,375,000
Total supply.....	5,473,000	3,897,000
Stocks, Dec. 1.....	3,129,000	1,818,000
Shipments during Nov. ....	220,000	160,000
Shipments June 1 to		
Dec. 1.....	2,344,000	2,079,000

#### Sweet Cherry Stocks and Shipments

	1948-49	1949-50
(cases—basis 24/2½'s)		
Carryover, June 1.....	23,000	65,000
Pack.....	839,000	1,678,000
Total supply.....	862,000	1,743,000
Stocks, Dec. 1.....	245,000	804,000
Shipments during Nov. ....	19,000	56,000
Shipments, June 1 to		
Dec. 1.....	617,000	939,000

#### Canned Peach Stocks and Shipments

	1948-49	1949-50
(Cases—basis 24/2½'s)		
Carryover, June 1.....	1,877,000	3,518,000
Pack.....	17,381,000	19,134,000
Total supply.....	19,258,000	22,652,000
Stocks, Dec. 1.....	10,611,000	12,004,000
Shipments during Nov. ....	878,000	1,127,000
Shipments, June 1 to		
Dec. 1.....	8,647,000	10,048,000

#### Canned Pear Stocks and Shipments

	1948-49	1949-50
(cases—basis 24/2½'s)		
Carryover, June 1.....	793,000	758,000
Pack.....	3,963,000	5,798,000
Total supply.....	4,756,000	6,556,000
Stocks, Dec. 1.....	2,876,000	3,354,000
Shipments, June 1 to		
Dec. 1.....	1,910,000	3,232,000

#### Canned Pea Stocks and Shipments

	1948-49	1949-50
(actual cases)		
Carryover, June 1.....	7,809,928	4,985,141
Pack.....	24,446,054	24,944,874
Total supply.....	33,255,982	29,930,015
Stocks, Dec. 1.....	16,850,883	13,909,006
Shipments during Nov. ....	1,650,179	1,847,720
Shipments, June 1 to		
Dec. 1.....	15,405,000	16,021,000

#### Tomato Juice Stocks and Shipments

	1948-49	1949-50
(actual cases)		
Carryover, July 1.....	3,578,479	5,740,779
Pack.....	23,701,160	20,558,673
Total supply.....	27,279,678	26,300,452
Stocks, Dec. 1.....	17,527,927	18,917,293
Shipments, July 1 to		
Dec. 1.....	9,751,751	10,383,159

### Canned Baby Food Statistics

Details of the canned baby food supply, stock and shipment situation, as reported by the Association's Division of Statistics, are presented below:

#### Baby Food Supply, Stocks and Shipments

	1948	1949
(thousands of dozens)		
Canner stocks, Jan. 1.....	49,687	53,782
Pack, Jan through Nov. ....	113,489	110,854
Supply.....	163,176	164,636
Canner stocks, Dec. 1.....	48,396	52,167
Canner shipments, Nov. ....	8,018	9,031
Canner shipments, Jan. through Nov. ....	114,780	112,460

### 1949 Pack of Pears

The 1949 canned pear pack totaled 6,371,036 actual cases as compared with 4,395,236 actual cases packed in 1948, according to the Association's Division of Statistics. The 1949 pack was 5,797,765 cases and the 1948 pack 3,992,854 cases, on the basis of 24/2½'s.

#### 1949 Canned Pear Pack

	1948	1949
(actual cases)		
Washington-Oregon.....	3,000,890	3,686,922
California.....	1,218,746	2,198,509
Other states.....	175,000	485,905
U. S. Total.....	4,395,236	6,371,036

### Estimates of U. S. Population

The population of every geographic division of the United States will either increase or show no significant decrease from 1949 to 1975, and therefore, "no curtailment of farm production for local consumption due to reduction in population appears in prospect for any geographic area of the country," it is estimated in a report issued this week by the Bureau of Agricultural Economics, USDA.

### Invitations for Bids

Quartermaster Purchasing Offices—111 East 16th Street, New York 3, N. Y.; 1819 West Pershing Road, Chicago 9, Ill.; Oakland Army Base, Oakland 14, Calif.

Veterans Administration—Procurement Division, Veterans Administration, Wash. 25, D. C.

The Walsh-Healey Public Contracts Act will apply to all operations performed after the date of notice of award if the total value of a contract is \$10,000 or over.

The QMC has invited sealed bids to furnish the following:

CANNED PUMPKIN (Fancy)—4,596 dozen No. 2½ or 6,668 dozen No. 2 cans, f.o.b. origin. Bids due at Chicago under Bid No. QM-11-188-50-422 by Jan. 3.

PINEAPPLE JUICE (Fancy)—93,753 dozen No. 2 Cyl. or 239,558 dozen No. 2 cans, f.o.b. origin. Bids due at Oakland under Bid No. QM-04-498-50-22 by Jan. 4.

CANNED PINEAPPLE (Choice or better)—28,562 dozen No. 10 cans, f.o.b. origin. Bids due at Oakland under Bid No. QM-04-498-50-91 by Jan. 5.

CANNED PINEAPPLE (Choice or better)—30,309 dozen No. 10 cans, f.o.b. origin. Bids due at Oakland under Bid No. QM-04-498-50-93 by Jan. 5.

CANNED APPLES (Standard)—2,635 dozen No. 10 and 480 dozen No. 2 cans, f.o.b. origin. Bids due at Chicago under Bid No. QM-11-188-50-427 by Jan. 11.

CANNED APPLES (Standard)—15,556 dozen No. 10 cans, f.o.b. origin. Bids due at Chicago under Bid No. QM-11-188-50-428 by Jan. 11.

CANNED APPLES (Standard)—37,445 dozen No. 10 cans, f.o.b. destination. Bids due at Chicago under Bid No. QM-11-188-50-431 by Jan. 11.

CANNED SWEET CORN (Extra Standard)—Quantities of No. 10 or No. 2 cans of whole grain, white or golden, f.o.b. destination. Bids due at Chicago under Bid No. QM-11-188-50-439 by Jan. 11.

\* Including all 300 cans from 407 to 412. \* Including all 307 cans from 505 to 513. \* Including all 404 cans from 615 to 708.

## PUBLICITY

### Recipes for Canned Soups Form Menu for Entire Meal

The main feature article in the foods section of the January issue of *The American Home* magazine stresses the adaptability of canned soup in every course of the meal. Entitled "Soup's a Starter," the two-page color spread includes photographs of each recipe. Together they compose a complete luncheon or dinner menu. The foods are photographed again in black and white and shown in the recipe section where the six recipes appear.

The article was written by Alice B. Kline. It begins: "There's soup in the recipe of every dish on these pages—including the dessert! Tomato soup in the steamed pudding, the salad dressing, and the meat loaf; mushroom soup in the biscuits; celery soup in the sauce for the vegetables, and consomme in the glaze for the carrots! Can you imagine tomato soup in a steamed pudding? We've tested it, and tasted it, and we'll vouch for it—it's marvelous!"

"Vegetable, tomato, mulligatawny, bouillabaisse, cream soups, consomme . . . there are thousands of soups to spark your imagination."

Another article in the same edition, one of the series entitled "It's Basic!", gives preparation for fresh, frozen, and canned vegetables. In it Lila M. Jones gives the National Canners Association's recommended method for preparing canned vegetables.

### Canned Foods Recipes Given For Smaller-Size Families

Entitled "4 Dinners for 2", an article in the January issue of *Woman's Home Companion* features recipes for small families and makes use of small-size cans. Four different dinner menus are planned, and eight recipes are given for entrees, salads and desserts, each recipe calling for one or more canned food ingredients.

Ann Satter starts the feature: "Planning good economical meals for two hungry people comes easy when you have a pantry full of varied delicious foods—each in just the right-size can to make your cooking easy and thrifty. Try out the different brands, then stock up your favorites."

One of the regular features of the *Woman's Home Companion* is the

popular "Food Calendar" written by Mrs. Nell B. Nichols, field reporter. In her January column, Mrs. Nichols uses liberal amounts of canned foods in the menu and recipe suggestions for each day. Canned foods included are fruit cocktail, luncheon meat, tuna, numerous soups, cranberry sauce, bean sprouts, and chili con carne.

## PERSONNEL

### Can Manufacturers Institute

Ralph C. Rosecrance of the J. L. Clark Manufacturing Co., Rockford, Ill., recently was elected president of the Can Manufacturers Institute for 1950. Ferris White was reelected executive vice president and Clifford E. Sifton was reelected secretary and treasurer. Harold H. Jaeger continues as director of C.M.I.'s marketing bureau.

### Bob Mairs Quits McGrath Co.

Robert W. Mairs resigned December 31 as vice president and sales manager of the H. J. McGrath Company, Baltimore, and has accepted a position with the Winter Garden Citrus Products Coop, Winter Garden, Fla. Mr. Mairs had served on the N.C.A. Board of Directors in 1948 and 1949.

### Syndicated Column Comments

(Concluded from page 370)

The article emphasizes the economy of canned foods, their nutritive value, and availability. Miss Barber closes the discussion by saying, "Perhaps the first reason for the large use of canned products is, however, the convenience of having a supply on hand to be called upon as needed. Perhaps fully as much appreciated is the time saving."

The article ends with the menu for a quick meal and includes recipes for "Corned Beef Hash and Fruit Grill" and "Creamed Peas and Ham."

### E. A. (Woody) Meyer

(Concluded from page 370)

the Office of Production Management. In March, 1942, he became chief of the Canned Food Section of the War Production Board, and the following August was named assistant director of the Food Division of WPB. He became chief of the War Food Administration's Industry Operations Branch in September, 1943, and associate chief of the Fruit and Vegetable Branch in March, 1944, promoted to chief in August of that year.

When the Production and Marketing Administration was formed a year later Mr. Meyer continued as director of the Fruit and Vegetable Branch.

He served in this capacity until April, 1946, when he was promoted to assistant administrator, becoming Administrator of RMA July 1, 1947.

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